

APPENDIX 2 - STANDARD WORDING ON ORDERS [EXAMPLES]

I. PAROLE HEARINGS (INITIAL AND SUBSEQUENT; INCLUDING FIFTEEN YEAR RECONSIDERATION).

- A. "Parole Effective after service of () months (date)" (used only when date is within nine months from date of hearing)
- B. "Continue to a Presumptive Parole after service of () months (date)" (used when date is later than nine months from date of hearing)
- C. "Continue to a Presumptive Parole after service of () months (date) or Continue to Expiration, whichever comes first." [Use when parole prior to the statutory release date (sentences of less than five years) or prior to the two-thirds date (sentences of five years or more) is desired, but extra good time may result in even earlier release].

NOTE: The following conditions, among others, may be added:

"... with placement through a Community Corrections Center recommended."

"... to a (concurrent) (consecutive) sentence."

"... provided the committed fine is paid or otherwise disposed of according to law."

"... to the actual physical custody of detaining authorities only." If not taken into custody on the detainer, place on the next docket for a special reconsideration hearing.

"... to the actual physical custody of detaining authorities, or if detainer is not exercised parole (presumptive parole) to the community effective (date)." Allow an additional 30 days for release planning.

"... to the actual physical custody of immigration authorities, or if detainer is not exercised parole (presumptive parole) to the community effective (date)." Allow an additional 30 days for release planning.

NOTE: When parole is to a detainer, the written reasons given should be associated with the date of release to the detainer; the reason for setting the alternative date of parole to the community 30 days later is to allow for release planning. If a detainer is withdrawn sufficiently in advance to make this additional 30 day period unnecessary, the institution should notify the Commission.

- D. "Continue for a Fifteen-Year Reconsideration Hearing in (month & year)."
- E. "Continue to Expiration" [use where parole prior to the statutory release date (sentences of less than five years) or prior to the two-thirds date (sentences of five years or more) is not desired]. **NOTE:** For purposes of determining quorum requirements for actions under §2.24(b)(2), §2.25, or §2.28(a) the statutory release date should be used for sentences of less than five years and the two-thirds date should be used for sentences of five years or more.

II. SPECIAL CONDITIONS

- A. "... with the special drug aftercare condition"

NOTE: The special parole condition must be typed out in full on the Notice of Action immediately after the decision, as follows: "You shall participate as instructed by your Probation Officer in a program approved by the Parole Commission for treatment of narcotic addiction or drug dependency (inpatient or outpatient), which may include testing to determine if you have reverted to the use of drugs. You shall also abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment."

- B. "... with the special alcohol aftercare condition"

NOTE: The special alcohol condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall participate in a community based program for the treatment of alcoholism as directed by your U.S. Probation Officer. You shall also abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment."

- C. "... with the special mental health aftercare condition"

NOTE: The special mental health aftercare condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall participate in an in-patient or an out-patient mental health program as directed by your U.S. Probation Officer."

- D. "...with the special Community Corrections Center condition."

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall reside in and participate in a program of the Community Corrections Center as instructed by your U.S. Probation Officer until discharged by the Center Director, but no later than 120 days from admission."

- E. "... with special supervision for () months" (not to exceed six months).

- F. "... with the special condition regarding [fines, restitution orders, court ordered child support or alimony payments]."

NOTE: This special condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall make a diligent effort to pay your outstanding [fine] [restitution order] [court ordered child support] [alimony] payments] and you shall provide such financial information as may be requested, by the United States Probation Officer, relevant to the payment of the obligation. If you are unable to pay this obligation in one sum, you will cooperate with the U.S. Probation Officer in establishing an installment payment schedule."

- G. "... with the special condition regarding financial disclosure."

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall make a full and complete disclosure of your finances and business activities as required by the U.S. Probation Officer. You shall submit to an audit of your personal and business financial records as requested by your U.S. Probation Officer."

- H. "... provided your committed fine is paid or otherwise disposed of according to law."

- I. "... with the special home confinement condition."

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall participate in the Home Confinement Program for a period of _____. During this time you will remain at your place of residence except for employment and other activities approved in advance by your Probation Officer. You will maintain a telephone at your place of residence without "call forwarding, "call waiting," "call back/call block," a modem or a portable cordless telephone for the above period. You will wear an electronic monitoring device and follow electronic monitoring procedures specified by your Probation Officer."

- J. "... with the special search condition."

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: "You shall submit to a search of your person, property, vehicle, and abode, conducted at a reasonable time and in a reasonable manner by the U.S. Probation Officer."

- K. "...with special employment-restriction condition(s)."

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: “You are not to be employed in a fiduciary capacity without the prior approval of your U.S. Probation Officer.” [and/or]

“You shall be precluded from employment in the (gaming) (telemarketing) (business) industry without obtaining prior approval from your U.S. Probation Officer and the U.S. Parole Commission.” [and/or]

“You shall not be employed in any position that requires you to handle money or authorize funds to be disbursed, unless your employer is first notified of your conviction and the circumstances thereof and with the approval of your U.S. Probation Officer.” [and/or]

You shall refrain from engaging directly or indirectly in the occupational activity in which you were engaged when you committed the instant (offense) (parole) (probation) (violation behavior); namely _____, unless approved by your U.S. Probation Officer and the U.S. Parole Commission. [and/or]

You shall not become involved in any business transactions relating to mortgage brokering that includes putting buyers and sellers of businesses together, appraising businesses, doing financial research, or arranging financing with banks or private investors unless approved by your U.S. Probation Officer and the U.S. Parole Commission.

- L. “... with the special (IRS)(SEC) condition.” “You will comply with all the rules and regulations and sanctions of the (Security and Exchange Commission). (Internal Revenue Service).” [and/or] “You shall comply with all IRS reporting and financial obligations and provide proof of meeting all IRS obligations to your U.S. Probation Officer as requested.”

- M. “... with the special credit-restriction condition.”

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: “You are prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit, personal or commercial, without prior approval of your U.S. Probation Officer and the U.S. Parole Commission.”

- N. “... with the special computer-restriction condition.”

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: “You shall not possess or use a computer with access to any “on-line computer service” at any location (including employment) without the prior written approval of the U.S. Parole Commission. This includes any Internet service provider, bulletin board system, or any other public or private computer network. Any approval by the Commission shall be subject to any conditions set by the Commission with respect to that approval. In addition, you shall not possess or use any data encryption technique or program. In addition, you shall: (1) consent to your Probation Officer and or probation service representative conducting periodic unannounced examinations of your computer(s) equipment which may include retrieval and copying of all memory from your computer(s) and any internal or external peripherals to ensure compliance with this condition and/or removal of such equipment for the purpose of conducting a more thorough inspection; and (2) consent at the direction of your Probation Officer to having installed on your computer(s), at your expense, any hardware or software systems to monitor your computer use.”

- O. “... with the special sex-offender-treatment condition.”

NOTE: The special condition must be typed out in full on the Notice of Action immediately after the decision as follows: “You shall participate in an in-patient or out-patient mental health program as directed by your U.S. Probation Officer, with special emphasis on long-term sex offender testing and treatment. You are expected to acknowledge your need for treatment and to participate in good faith in achieving the program goals that will be established for you.” [and/or]

"You shall not have any association or contact of any kind with minor children, whether in your residence, employment, social, or other activities, without the approval of your U.S. Probation officer." [and/or]

"You shall not possess in any place, or at any time, any pornographic material."

III. PSYCHIATRIC CONTINUANCE

- A. "Continue to (one year later) or until such time as the medical staff shall advise the Regional Commissioner that subject is sufficiently recovered mentally to participate in a parole hearing." (According to regulations the institutional staff is required to submit a progress report at least every six months on the mental health of the inmate)**

IV. ORIGINAL JURISDICTION (Use Two Orders)

- A. "Refer to Regional Commissioner for Original Jurisdiction consideration."**
- B. (Alternate Decision) "Continue, etc."**

V. ORIGINAL JURISDICTION - ORDER OF REGIONAL COMMISSIONER

- A. "Your case has been designated as Original Jurisdiction and referred to the National Commissioners for decision."**
- B. "Your case has been previously classified as Original Jurisdiction -Refer to National Commissioners for declassification."**
- C. "Your case has been previously classified as Original Jurisdiction -Refer to National Commissioners for declassification and reconsideration pursuant to 28 C.F.R. 2.24(a)."**

VI. RESCIND PAROLE EFFECTIVE DATE (Use two orders)

- A. 1. "Rescind Parole Grant Effective (date)."**
 - 2. (a) "Continue to a Presumptive Parole (date). This requires service of an additional _____ (mos.)(days)."**
 - (b) "Parole Effective (date). This requires service of an additional _____ (mos.)(days)."**
 - [NOTE: Use if within six months from the date of the hearing]**
 - (c) "Continue to Expiration. This requires service of an additional _____ (mos.)(days)."**

- B. 1. "No Decision to Rescind."**
- 2. "Parole Effective (date)."**

NOTE: Instruct typists to copy the findings of fact and the basis for each finding on the Notice of Action.

VII. ACTIONS AT STATUTORY INTERIM HEARING

- A. "No Change in Presumptive Parole date (____)."**
- B. "No Change in Fifteen-Year Reconsideration date (____)."**
- C. "No change in Continuation to Expiration."**

D. "No change in Presumptive Parole date." "Parole effective date (____)."

NOTE: If the original decision included a special condition or detainer wording, this condition or wording is to be added.

E. "Reopen and retard (or rescind) Presumptive Parole date." SPECIFY NEW ACTION. NOTE: In cases of significant disciplinary infractions only.

F. "Reopen and advance (Presumptive Parole date) (Continue to Expiration)." SPECIFY NEW ACTION.

NOTE: In cases of exceptional circumstances or superior program achievement only.

VIII. PRE-RELEASE REVIEW (ON THE RECORD)

A. "No change in Presumptive Parole and Parole effective (date)."

B. "Reopen and retard Presumptive Parole date of (date) [up to 90 days for disciplinary reasons; up to 120 days for program planning] and Parole effective (date)."

C. "Reopen and retard Presumptive Parole date of (date) and schedule for a rescission hearing (on the next appropriate docket) (upon return to a federal institution)."

D. "Reopen and advance Presumptive Parole date of (date) for superior program achievement and Parole effective (date)."

IX. REOPENINGS

A. "Reopen and (Parole effective, Continue, etc.)"

B. "Pursuant to 28 C.F.R. 2.28(f), reopen and schedule for a special reconsideration hearing to consider new adverse information."

C. "Pursuant to 28 C.F.R. 2.28(f) and 2.30, reopen [issue warrant] and schedule for a special reconsideration hearing to consider new adverse information."

D. "Pursuant to 28 C.F.R. 2.28, Reopen and Continue to Expiration."

NOTE: Use in cases in which a presumptive parole date has been ordered and the inmate subsequently receives a sentence reduction which will result in release prior to the presumptive parole date given. Indicate on the NOA that this action is non-appealable. In the 'Reasons' section state that "the Commission's evaluation of your case remains the same. Your sentence reduction will result in mandatory release prior to the previously set presumptive parole date".

E. "Reopen and advance presumptive parole date of _____ and parole effective _____ with the special Home Confinement condition."

F. "Pursuant to 28 C.F.R. 2.28(e), reopen and retard parole effective date of _____ and parole effective _____ (with the following additional special condition(s)):"

G. "Pursuant to 28 C.F.R. 2.28(d), reopen and schedule for a special reconsideration hearing pursuant to 28 C.F.R. 2.52(c)(2) on the next regularly scheduled docket to consider forfeiture of time spent on release and further action as may be appropriate."

X. DISPOSITIONAL RECORD REVIEW

A. "Let the Detainer Stand."

- B. "Withdraw detainer and close case." (where expiration date has passed)
- C. "Withdraw detainer and reinstate to supervision when released from present sentence."
- D. "Withdraw warrant dated _____ conditioned upon full execution of current sentence. Warrant to be reissued if sentence is vacated or modified."
- E. "Void previous order to schedule for a subsequent dispositional review and let the detainer stand."

XI. DISPOSITIONAL REVOCATION/COMBINED DISPOSITIONAL REVOCATION/INITIAL HEARINGS

Two orders should be used, with the first addressing the revocation and street time decisions, and the second addressing the recommencement/repardole decision. The following examples pertain to prisoners with sentences other than YCA, NARA, Canadian/Mexican transfer cases. In YCA, NARA, and Canadian/Mexican transfer cases, the federal term runs uninterruptedly (unless absconding is also found as a violation of parole) so the wording concerning the commencement of the unexpired portion of the federal sentence is to be deleted; and the wording as to the street time credit changed appropriately.

A. NEW STATE SENTENCES (Dispositional Revocation Hearing Orders)

Revoke parole; none of the time spent on parole shall be credited. The unexpired portion of your federal sentence shall commence upon your release from state custody or upon federal repardole to your state sentence, whichever comes first;

... (Continue for a presumptive) parole from the violator term after service of _____ months (date) [or by expiration of sentence, whichever comes first].

... Continue for a fifteen-year reconsideration hearing (mo/yr 15 years from date of dispositional hearing).

(ADD AT THE BEGINNING OF THE 'REASONS' SECTION)

... If you are released from state custody prior to the above date, you will be taken into federal custody. You will then have a presumptive parole on the above date unless you are released earlier by expiration of sentence less good time. If you are still in state custody as of the above date, you will have a presumptive parole from the violator term to your state sentence on the above date.

... If you are released from state custody prior to the above date, you will be taken into federal custody and provided a fifteen year reconsideration hearing on the above date, unless you are released earlier by expiration of sentence less good time. If you are still in state custody as of the above date, you will be given a fifteen year reconsideration hearing in state custody.

... Number of days owed on federal parole violator term = (____)(use for sentences where street time is forfeited)

... Maximum expiration date on federal parole violator term is (____).
(use for YCA, NARA, Mexican/Canadian Treaty cases)

... In addition, you have been scheduled for an interim record review during (mo/yr); if you are returned to federal custody before that time an interim hearing will be conducted during the month scheduled for the record review.

NOTE: If it is evident that the time remaining on the new sentence plus the amount of time remaining on the violator term will fall short of the appropriate 'time-served' decision, the order may be modified to reflect commencement upon release from the new sentence and a 'continue to expiration' on the violator term.

B. NEW FEDERAL SENTENCES

1. Orders for Combined Initial/Dispositional Revocation Hearings

Revoke parole; none of the time spent on parole shall be credited. The unexpired portion of your original federal sentence will commence upon your release by parole or mandatory release from the new sentence.

... (Continue for a presumptive) parole on the new sentence after service of months (date); (Presumptive) parole on the violator term as of the same date.

... Continue to expiration on the new sentence; Continue to expiration on the violator term.

... Continue to expiration on the new sentence; Continue to a presumptive parole on the violator term (date) [or by expiration of sentence less good time, whichever comes first]. NOTE: Add the wording in brackets if there is a question as to whether expiration of sentence will occur prior to the appropriate presumptive parole date.

... Continue to a fifteen-year reconsideration hearing on the new sentence; Defer consideration on the violator term.

... Continue to expiration on the new sentence; Continue to a fifteen-year reconsideration hearing during (mo/yr 15 years from date of dispositional revocation hearing) on the violator term.

NOTE: Use the reparole guideline worksheet and add wording so that the offense behavior statement references both "new offense/parole violation behavior"; the months in custody reflect "federal" or "state and federal" as appropriate; the guideline reference is to "Parole/Reparole Guidelines". The severity rating should reflect all aspects of the parole violation behavior, even if there were instances of criminal conduct involved in the parole violation which are not a part of the offense for which the new federal sentence was imposed.

2. Orders for Dispositional Revocation Hearings Not Combined with Initial Hearings

Revoke parole; none of the time on parole shall be credited. The unexpired portion of your original federal sentence shall commence upon your release from your new sentence or upon reparole to your new sentence, whichever comes first;

... (Continue for a presumptive) parole from the violator term after service of ____ months (date).

... Continue for a fifteen-year reconsideration hearing (mo/yr) (15 years from date of dispositional revocation hearing).

NOTE: If it is evident that the time remaining on the new sentence plus the amount of time remaining on the violator term will fall short of the appropriate 'time-served' decision, the order may be modified to reflect commencement upon release from the new sentence and a 'continue to expiration' on the violator term.

XII. TERMINATION OF SUPERVISION

A. "Terminate supervision effective (date)."

B. "Continue under supervision [Five Year Hearings Only]."

There is a likelihood that you will engage in conduct violating a criminal law." [The Notice of Action and the Hearing Summary should also specify the basis for this finding of likelihood.]

XIII. MANDATORY PAROLE (AT TWO-THIRDS OF TERM)

A. "Mandatory Parole at two-thirds of the term."

- B. "Deny Mandatory Parole and Continue to Expiration" (use when there is a finding after a hearing that there have been serious violations of institutional rules or there is a likelihood of further criminal conduct).
- C. "Schedule for a Mandatory Parole Hearing on the next docket."

XIV. REVOCATION HEARINGS (Use three separate orders)

A. With Regard to Revocation

- 1. "Revoke parole"
- 2. "no finding of violation"
- 3. "the violation(s) found deemed not sufficient for revocation"

B. With Regard to Service of the Term

- 1. "Time spent on parole from ([last date of reporting] [day after release] through [the day before the warrant was executed] shall be credited)
- 2. "No credit on the sentence shall be given for the period beginning ([last date of reporting] and ending [the day before the warrant was executed])
- 3. "None of the time spent on parole shall be credited." (Use when there is a criminal conviction)
- 4. "No credit on the sentence shall be given for the period beginning () and ending ()." (Use in YCA, NARA, and Mexican/Canadian Treaty cases - absconding cases only).

C. With Regard to Continuance

- 1. "Continue [to a Presumptive Parole after service of () months (date), for a fifteen-year reconsideration hearing, or to expiration] if no 'effective parole date' is established."

D. With Regard to Reinstatement

- 1. Withdraw warrant dated _____ and (close case) (reinstate to supervision forthwith). The (U.S. Marshals Service) (Bureau of Prisons) is requested to return the warrant to the Parole Commission as soon as possible.

____ E. Wording for Street-Time Forfeiture in the 9th Circuit

- 1. "Revoke _____, None of the time spent on _____ shall be credited."

The Commission has considered the mitigating circumstances brought forth at your Revocation Hearing and has determined in its discretion that forfeiture of all street time is warranted under the circumstances.

F. Special Parole Violator Wording

- 1. "Your special parole violator term is hereby converted to a regular term of imprisonment with eligibility for parole under 18 U.S.C. Sec. 4208 (a). Mandatory release will be to full term less 180 days under 18 U.S.C. 4164, and is subject to 28 C.F.R. 2.52."

NOTE: Your special parole was converted to regular parole because circuit law that applies to the place of your incarceration or parole, or to which you may be released in the future, requires the above order. The parole which may be granted to you, if you apply, would be conditioned on the Commission's jurisdiction to provide community supervision.

XV. NATIONAL APPEALS BOARD

- A. "Decision dated () Affirmed"**
- B. "Decision dated () Modified"**
(state new action)
- C. "Decision dated () Reversed"**
(state new action)
- D. "Original Jurisdiction Classification dated () reversed. Case declassified."**

XVI. CASES WITH UNSATISFIED RESTITUTION ORDERS

- A. The following wording on the Notice of Action shall be added to each presumptive/effective parole case: "If you have not satisfied the restitution order prior to release, a reasonable plan of payment (or performance of services, if ordered) must be included in your parole release plan. If it is determined that you have the ability to satisfy the restitution order prior to release, but have willfully failed to do so, approval of your release plan shall be contingent upon your first satisfying the restitution order."**